

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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UNITED STATES OF AMERICA )

v. )

SUNRISE LEE, )

Defendant. )

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Court No.: 16-cr-10343-05-ADB

**UNITED STATES' SENTENCING MEMORANDUM**  
**IN AID OF SENTENCING FOR SUNRISE LEE**

The United States of America hereby submits this memorandum in aid of sentencing for defendant Sunrise Lee.

I. Introduction

The evidence in this case revealed a criminal scheme to profit from insurance fraud generated and sustained by the payment of bribes. *See Memorandum And Order On Defendants' Motions For Judgment of Acquittal and For a New Trial*, ECF 1028, at 29. Sunrise Lee was an important player within that scheme, who recruited, cultivated, and controlled two of the most corrupt but prolific co-conspirator physicians in the United States. Her efforts made her a trusted leader within the scheme, who was given responsibility to supervise roughly one third of the entire Insys sales force. Accordingly, the United States recommends that the Court sentence Sunrise Lee to a period of incarceration of not less than 6 years (72 months).

II. Lee's Criminal Conduct

A. Lee and Gavin Awerbuch

When Sunrise Lee started at Insys Therapeutics, her territory included a high decile prescriber named Dr. Gavin Awerbuch. 01/30 Tr. 109:1-3. Awerbuch owned and managed a large

pain clinic in Saginaw Michigan. 01/31 Tr. 18:22-19:20. Lee directly supervised Awerbuch's sales rep, Brett Szymanski. 01/30 Tr. 134:10-14.

While Szymanski dealt with day to day matters, it was Lee that controlled and organized the conspiracy's relationship with Awerbuch. It was Lee, not Szymanski, who first offered Awerbuch bribes. 03/06 Tr. 128: 20-25. And when Awerbuch demanded more money, it was Lee, not Szymanski, that called him and agreed to drastically increase the number of speaker programs he was assigned. 01/30 Tr. 75:24-76:10.

Lee's efforts with Awerbuch were rewarded. Before Lee met with Awerbuch, he averaged four Subsys prescriptions per week. 01/30 Tr. 119:23-25 & Ex. 50. Just three months after Lee began cultivating Awerbuch, he averaged 19.4 prescriptions for Subsys per week. 01/30 Tr. 157: 1-24 & Ex. 674-02. Before being arrested for illegal distribution of Subsys, Awerbuch would become one of the top prescribers of Subsys in the United States. 01/31 Trial Tr. 88:2-5.

#### B. Lee and Paul Madison

Lee's initial efforts at cultivating new conspirators were not limited to Awerbuch. From the very beginning of her employment at Insys, Lee also aggressively recruited a high decile prescriber located near Chicago, named Dr. Paul Madison. 01/29 Tr. 63:8-64:2. In late September 2012, right after starting as the district manager responsible for Chicago, Lee met with Madison. 03/06 Tr. 148: 22-24 & Ex. 670. After the meeting, Lee reported that Madison "was onboard" and that he had agreed to write significant quantities of prescriptions in exchange for participation in the Insys speaker program. 03/06 Tr. 149:1-12 & Ex. 670. Once again, just like her efforts with Awerbuch, Lee's subordinates handled day to day matters, but it was Lee who was responsible for organizing the conspiracy's relationship with Madison. Ex. 2150.

### C. Lee and the IRC

Like every other co-conspirator involved with bribing doctors, Lee was acutely aware of the symbiotic relationship between the bribery scheme and the IRC. If bribed doctors wrote prescriptions, but insurance companies refused to pay, no one made money. 03/05 Trial Tr. 121:22-122:8. It was Lee, however, that discovered an additional way to connect the two schemes. As described above, after Lee cultivated Awerbuch, he became one of the top prescribers of Subsys in the United States. 01/31 Trial Tr. 88:2-5. Eventually, however, Awerbuch was writing so many Subsys prescriptions, obtaining prior authorizations for those scripts became a full-time job for his office staff. 01/31 Trial Tr. 84:12-15. This upset Awerbuch. 01/31 Trial Tr. 84:17.

On May 2, 2013, Liz Gurrieri, the IRC Manager, informed Lee that the IRC had a huge backlog of 153 Awerbuch prior authorizations “in progress, ... and ... 88 charts that we have not worked on yet.” Ex 2045. The email chain sent by Gurrieri identified approximately 130 Awerbuch patients by name and date of birth, and requested additional information regarding each patient. Ex .2045.

In response, Lee figured out how to give Awerbuch an additional bribe, while at the same time gaining control over the prior authorization process. At the time, a woman named Kourtney Nagy worked for Awerbuch and handled many of the Subsys prior authorization requests for his office. Lee approached Awerbuch, and asked if Insys could hire Nagy, so that Awerbuch would no longer have to pay her salary. 01/31 Tr. 85: 21-24. Awerbuch agreed. 01/31 Tr. 85:8-11.

On or about September 12, 2013, Lee emailed the Insys Human Resource officer, copying Alec Burlakoff, Rich Simon, and another, to ask, “please tell me what the status is for the new

Detroit ABL, Kourtney Nagy? She is very anxious.” Ex. 42. Mike Babich approved the hire the same day. Ex. 42. At trial, Babich testified:

Ms. Nagy used to work, or at the time I believe she worked at Dr. Awerbuch's office. By hiring her, we would be able to take an expense off the books of Dr. Awerbuch and put the expense on our books. And in return, the scripts that Dr. Awerbuch wrote would be easier to get through the healthcare insurance companies, because Kourtney had experience doing that for Dr. Awerbuch already.

02/13 Trial Tr. 61:3-9.

#### D. Lee’s Leadership Role

As described above, Sunrise Lee was recruited by Alec Burlakoff to be the regional sales manager for an area covering the Midwest and central Atlantic regions of the United States. 03/01 Tr. 190:21-22 & Ex. 1488, 192:5-6. Her success resulted in her promotion to regional sales director for Insys. Ex. 299. In that position, Lee supervised at least 15 different sales reps located throughout her region. Ex. 2339.

After Lee was promoted to Regional Director, she met with the man that replaced her as sales manager in the Midwest, Richard Horrocks. 03/19 Tr. 176:24-178:5. During their meeting, Lee gave Horrocks detailed instructions on how to deal with Awerbuch and Madison. 03/19 Tr. 176:24-178:5. Lee told Horrocks that “she wanted at least anywhere from eight to ten scripts a day to keep Dr. Madison up and going.” 03/19 Tr. 176:24-178:5. Horrocks testified that when Madison did not write an adequate number of scripts, Lee would call him to complain,

you can’t let this happen, what’s going on, why are you letting this happen, you can’t—I developed him. He’s one of our guys that needs to stay on target.

03/19 Tr. 177:21-178:5. Despite her lack of experience in pharmaceuticals, Sunrise Lee thrived as a leader and organizer in the conspiracy.

### III. The Impact of Lee's Conduct

At trial, defense counsel for Sunrise Lee repeatedly attempted to portray her as an unwitting victim of other leaders in the conspiracy for which she was indicted. The effort was not based in fact, but on biased presuppositions, and was rejected by the jury. The evidence in this case demonstrated that Lee was the leader of the conspiracy in the Midwest, who developed and then controlled a number of co-conspirator prescribers, most notably Dr. Gavin Awerbuch and Dr. Paul Madison. To be sure, unlike the other defendants in this case, Lee did not join the conspiracy with experience in the healthcare industry; but, as described above, evidence also demonstrates that once hired, Lee intentionally, and cogently, bribed doctors, then guided the sales reps and managers that she supervised to do the same.

Lee's conduct, like the conduct of her co-conspirators, had an impact on the lives of the patients that were prescribed Subsys by doctors that she bribed. At trial, the testimony of Gavin Awerbuch leaves no doubt about the impact of Lee's conduct. A board certified physician, with decades of experience as a treating physician, told the jury that even though his patients had chronic pain,

these were patients that didn't need strong opioids like Subsys. They did need pain management...but I certainly didn't need to write a medicine like Subsys for them.

01/31 Tr. 183:18-185:9. Whatever her intent, whether general or specific, Sunrise Lee's crime caused profound harm.

### IV. Conclusion

For all these reasons, the United States respectfully requests that this Court sentence defendant Sunrise Lee to a period of incarceration of not less than 6 years (72 months).

Respectfully submitted,

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United States Attorney

Dated: December 18, 2019

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**Certificate of Service**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

Dated: December 18, 2019

/s/ K. Nathaniel Yeager  
Assistant U.S. Attorney